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Paper 26
Filed January 28, 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

GM Global Technology Operations, Inc.,
Junior Party
(Patent 7,459,065
Inventors: Nelson A. Kelly and Thomas L. Gibson),

v.

Thomas W. Oakes,
Senior Party
(Application 10/785,234).

Patent Interference No. 105,692 (RES)
(Technology Center 1700)

Before: RICHARD E. SCHAFER, JAMESON LEE and SALLY G.
LANE, *Administrative Patent Judges.*

SCHAFER, *Administrative Patent Judge.*

Judgment – Concession of Priority – 37 C.F.R. § 41.127(b)(3)

1 Oakes has filed a concession of priority. Paper 24. Oakes concession
2 is construed as a request for adverse judgment as to the subject matter of
3 Count 1 (Paper 18, p. 2). 37 C.F.R. § 41.127(b).

1 Oakes was authorized to and has filed amended claims. Paper 25.
2 Oakes requests that the amended claims be placed into the administrative
3 record of his application 10/785,234. GM does not oppose that request. The
4 request is granted and a copy of the amendment shall be made of record in
5 the application. As noted in Paper 23, while the paper amending or adding
6 claims would be made of record in the application file, the board has no
7 control over how the examining corps will act on those claims. How the
8 amendment will be treated is totally at the discretion of the Office of the
9 Commissioner for Patents.

10 It is

11 **ORDERED** that judgment on priority as to the subject matter of
12 Count 1 (Paper 18, p. 2) is awarded against the senior party, Thomas W.
13 Oakes;

14 **FURTHER ORDERED** that senior party, Thomas W. Oakes, is not
15 entitled to a patent including the subject matter of claims 1, 3-20, 23-27, 29-
16 35 of Application 10/785,234;

17 **FURTHER ORDERED** that claims 1, 3-20, 23-27, 29-35 of
18 Application 10/785,234 all corresponding to Count 1 are finally refused (35
19 U.S.C. § 135(a));

20 **FURTHER ORDERED** that a copy of the paper titled "Oakes
21 Amended Claims" (Paper 25) be made of record in the file history of
22 Application 10/785,234;

23 **FURTHER ORDERED** that a copy of this judgment be made of
24 record in the file histories of Patent 7,459,065 and Application 10/785,234;

1 **FURTHER ORDERED** that if there is any settlement agreement or
2 related documents that have not been filed, attention is directed to 35 U.S.C.
3 § 135(c) and 37 C.F.R. § 41.205.

/Richard E. Schafer/
RICHARD E. SCHAFFER
Administrative Patent Judge

/Jameson Lee/
JAMESON LEE
Administrative Patent Judge

BOARD OF PATENT
APPEALS AND
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/Sally G. Lane/
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Administrative Patent Judge

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